



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

September 10, 1993

CERTIFIED RETURN RECEIPT
P 074 977 037

Mr. Wendell Owen
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Re: Proposed Assessment for State Violation Nos. N93-35-5-1, N93-35-6-1, and N93-35-7-3, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed are the proposed civil penalty assessments for the above-referenced violations. The violations were issued by Division Inspector, Susan White on August 12, 1993. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalties. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notices of Violation, has been considered in determining the facts surrounding the violations and the amount of penalties.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



Page 2
N93-35-5-1
N93-35-6-1
N93-35-7-3
ACT/015/025
September 10, 1993

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalties will become final, and the penalties will be due and payable within thirty (30) days of the proposed assessments. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

jbe

Enclosure

cc: Bernie Freeman, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine **NOV #** N93-35-6-1

PERMIT # ACT/015/025 **VIOLATION** 1 **OF** 1

ASSESSMENT DATE 09/10/93 **ASSESSMENT OFFICER** Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 09/10/93 **EFFECTIVE ONE YEAR TO DATE** 09/10/92

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N93-35-1-1</u>	<u>07/31/93</u>	<u>1</u>

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Damage to property
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? The event did occur.

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

A blocked culvert resulted in erosion adjacent to the coal storage pad.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

A large gully (3 X 5 feet) off the coal storage pad had been created by the lack of maintenance with respect to culvert C-7D.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 32

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 16

PROVIDE AN EXPLANATION OF POINTS

The inspection of May 20, 1993 by Susan White revealed that culvert C-7D was plugged. Due to the unique design of the culvert which allows coal to cover the inlet, it was difficult to determine if the operator's attempts on May 20, 1993, were successful in unplugging the culvert. Additionally, this was a site of violation N90-35-1-1.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
 ... **Immediate Compliance -11 to -20***
 ... Immediately following the issuance of the NOV)
 ... **Rapid Compliance -1 to -10***
 ... (Permittee used diligence to abate the violation)
 ... **Normal Compliance 0**
 (Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... Rapid Compliance -11 to -20*

... (Permittee used diligence to abate the violation)

... Normal Compliance -1 to -10*

... (Operator complied within the abatement period required)

... Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N93-35-6-1

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>32</u>
III.	TOTAL NEGLIGENCE POINTS	<u>16</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>49</u>
	TOTAL ASSESSED FINE	<u>\$ 960.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine **NOV #** N93-35-5-1

PERMIT # ACT/015/025

VIOLATION 1 **OF** 1

ASSESSMENT DATE 09/10/93

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 09/10/93

EFFECTIVE ONE YEAR TO DATE 09/10/92

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

N93-35-1-1

07/31/93

1

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Damage to property, environmental harm, and water pollution.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Water pollution did occur.

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that damage to property as well as environmental harm did not occur; however, runoff from the disturbed area flowed untreated outside the permit area.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that no noticeable damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 20

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to maintenance of sediment control structures.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
- | | |
|---|-------------|
| ... Immediate Compliance | -11 to -20* |
| ... Immediately following the issuance of the NOV) | |
| ... Rapid Compliance | -1 to -10* |
| ... (Permittee used diligence to abate the violation) | |
| ... Normal Compliance | 0 |
- (Operator complied within the abatement period required)
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ____ ASSIGN GOOD FAITH POINTS ____-0__

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N93-35-5-1

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>29</u>
	TOTAL ASSESSED FINE	<u>\$ 380.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine **NOV #** N93-35-7-3

PERMIT # ACT/015/025

VIOLATION 1 **OF** 3

ASSESSMENT DATE 09/10/93 **ASSESSMENT OFFICER** Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 09/10/93 **EFFECTIVE ONE YEAR TO DATE** 09/10/92

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
---------------------	----------------	--------

<u>N93-35-1-1</u>	<u>07/31/93</u>	<u>1</u>
-------------------	-----------------	----------

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Injury to the public (public safety), damage to property, environmental harm, and water pollution.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely/Insignificant

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 2

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that no event occurred as a result of the violation.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 2

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE OrdinaryASSIGN NEGLIGENCE POINTS 15**PROVIDE AN EXPLANATION OF POINTS**

The inspector's statement revealed that numerous times prior to the inspection of August 10, 1993, the inspector, Susan White, had spoken with the operator's representative regarding the need to complete all hydrologic related work prior to construction of a bath house.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
... **IF SO - EASY ABATEMENT**
Easy Abatement Situation
... **Immediate Compliance** -11 to -20*
... Immediately following the issuance of the NOV)
... **Rapid Compliance** -1 to -10*
... (Permittee used diligence to abate the violation)
... **Normal Compliance** 0
(Operator complied within the abatement period required)
(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ____ **ASSIGN GOOD FAITH POINTS** -10

PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation.

V. **ASSESSMENT SUMMARY FOR** N93-35-7-3 1/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>2</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	 TOTAL ASSESSED POINTS	 <u>8</u>
	 TOTAL ASSESSED FINE	 <u>\$ 80.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine **NOV #** N93-35-7-3

PERMIT # ACT/015/025

VIOLATION 2 **OF** 3

ASSESSMENT DATE 09/10/93 **ASSESSMENT OFFICER** Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 09/10/93 **EFFECTIVE ONE YEAR TO DATE** 09/10/92

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N93-35-1-1</u>	<u>07/31/93</u>	<u>1</u>

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Damage to property, environmental harm, and water pollution.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Likely

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

Precipitation events would inevitably result in offsite sediment loading.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 15

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Indifference on numerous previous inspections, the operator had discussed plans with the Division to complete the hydrologic diversions prior to proceeding with the bath house. In addition to previous warnings during inspections dated June 29 and July 14, 1993, the operator is reflecting a knowing degree of negligence.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
- | | |
|---|-------------|
| ... Immediate Compliance | -11 to -20* |
| ... Immediately following the issuance of the NOV) | |
| ... Rapid Compliance | -1 to -10* |
| ... (Permittee used diligence to abate the violation) | |
| ... Normal Compliance | 0 |
- (Operator complied within the abatement period required)
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -10

PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation.

V. **ASSESSMENT SUMMARY FOR** N93-35-7-3 2/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	 TOTAL ASSESSED POINTS	 <u>26</u>
	 TOTAL ASSESSED FINE	 <u>\$ 320.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine **NOV #** N93-35-7-3

PERMIT # ACT/015/025

VIOLATION 3 **OF** 3

ASSESSMENT DATE 09/10/93

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 09/10/93

EFFECTIVE ONE YEAR TO DATE 09/10/92

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

N93-35-1-1

07/31/93

1

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Environmental harm, water pollution, loss of reclamation/revegetation potential, and reduced establishment, diverse and effective vegetative cover.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? None of the event occurred, but the probability of occurrence of reduced establishment, diverse and effective vegetative cover is likely.

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

With the absence of a berm around the topsoil pile and clear indication of previous precipitation events, it is likely that the establishment of diverse vegetative cover was affected.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The extent of damage is minimal as evidenced by the small amount of coal fines deposited off of the disturbed area.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) 23III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of FaultASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Indifference on numerous previous inspections and technical visits discussions were held with the operator regarding strip and topsoil, placing a berm, and requisite vegetation to protect the pile prior to preceding with the construction of the bath house as evidenced by inspections reports dated June 29 and July 14, 1993.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
... **IF SO - EASY ABATEMENT**
Easy Abatement Situation
... **Immediate Compliance -11 to -20***
... **Immediately following the issuance of the NOV)**
... **Rapid Compliance -1 to -10***
... **(Permittee used diligence to abate the violation)**
... **Normal Compliance 0**

(Operator complied within the abatement period required)
(Operator complied with conditions and/or terms of approved
Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement
occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance
OR does the situation require the submission of plans prior to physical
activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the
limits of the NOV or the violated standard, or the plan submitted
for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved
Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -15

PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation.

V. **ASSESSMENT SUMMARY FOR** N93-35-7-3 3/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>23</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-15</u>
	TOTAL ASSESSED POINTS	<u>29</u>
	TOTAL ASSESSED FINE	<u>\$ 380.00</u>